Eight Mile Style, LLC et al v. Apple Computer, Incorporated
Doc. 40 Att. 4

EXHIBIT 3

April 25, 2008, 7:03 PM email from Melinda LeMoine

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From: LeMoine, Melinda
Sent: Friday, April 25, 2008 7:03 PM
To: 'Marc Guilford'; 'Richard Busch'; 'Ramona DeSalvo'; 'mblock@chrisglase.com'
Cc: Encinas, Kimberly; Pomerantz, Glenn
Subject: Outstanding discovery issues

Counsel:

I spoke with Marc today on the phone and promised that I would get back to him today with this information. To respond to the below email chain, the Bates range for documents produced from King Holmes files is AFT-0020050 to 20360. King Holmes provided us with some additional documents that I have put in the production queue. I will be reviewing them for production this weekend with an eye towards getting them out to you as early as I can (ideally Monday).

Marc also asked me about providing Concordance load files. I understand from the technical folks that we have provided Concordance load files, but that they do not include OCR. I don't think it is too much to ask of us to provide OCR for most of the documents in the productions. The only thing we can't do is provide OCR for redacted documents, so those will be excluded from the OCR. Would the OCR for our unredacted documents in the previous productions be sufficient or is there some additional information you would like included in the load files? Let me know and I will have the load files created and messengered to Christensen.

As I mentioned on the phone, I am working on bringing some of our open issues in 8 Mile to a close. In Richard's email to Kelly Klaus on April 16, he limited the scope of several of the outstanding contested requests to request seven categories of communications, all relating to the Eminem compositions. Below is the status of where we are on those seven categories of material.

For Aftermath: We are working to supplement our responses to address the first three categories in Richard's email: (1) documents concerning whether there was a need to obtain a publishing or mechanical license from plaintiffs; (2) any publishing or mechanical licenses allegedly obtained; and (3) whether plaintiffs had executed/returned such licenses. While I am still working to identify additional material, if any, I have a population of potentially responsive documents in the production queue and hope to have them reviewed and produced by as soon as possible next week. I am also confirming whether our initial productions necessarily would have encompassed the non-privileged communications requested in the next two categories: (4) any analysis of the controlled composition clause and what the language allowed versus other Aftermath controlled composition clauses, and (5) any communications with Joel on any of these topics.

For Apple: We will supplement our responses to provide that, after a reasonably diligent search, Apple has not found any documents responsive to the above categories 1-5. As to categories (6) and (7) in Richard's email, I understand that we will produce download reports from Apple as soon as we can.

If I could also respond to Ramona's request to identify which request documents are responsive to (the email she forwarded earlier to Glenn): We are producing documents as they are kept in the usual course of business, which is provided for specifically in the Federal Rules. See Fed. R. Civ. Proc. 34(B)(2)(E)(i).

I know that there are other issues that are still open, and I am continuing to work on those as well. In the meantime, if you have any questions about any of this, please call me.

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From: Marc Guilford [mailto:mguilford@KingBallow.com]
Sent: Friday, April 25, 2008 3:23 PM
To: Pomerantz, Glenn; Richard Busch; mblock@chrisglase.com; Ramona DeSalvo
Cc: LeMoine, Melinda; Encinas, Kimberly
Subject: RE: Depositions

Glenn,

We have not yet received a list of the Bates numbered documents from Mr. Paterno's firm that have already been produced -- when can we get that list from you?

Marc R. Guilford
King & Ballow
315 Union Street, Suite 1100
Nashville, TN 37201
Phone: 615.726.5431
Fax: 615.248.2860

From: Pomerantz, Glenn [mailto:Glenn.Pomerantz@mto.com]
Sent: Thursday, April 24, 2008 2:07 PM
To: Richard Busch; Marc Guilford; mblock@chrisglase.com; Ramona DeSalvo
Cc: LeMoine, Melinda; Encinas, Kimberly
Subject: RE: Depositions

Yes, we are going forward with Paterno on April 30. Has the time and location of that deposition been confirmed? As for documents, my understanding is that some documents from the files of Mr. Paterno's firm have already been produced by Aftermath. We will identify the Bates numbers of those documents for you. If any additional documents need to be produced by Mr. Paterno's firm, we will try to get them to you before April 30.

I will follow up on the Eight Mile document requests and try to get back to you by tomorrow.

Can you get back to me today or tomorrow on the remaining questions I posed to you in my email below?

From: Richard Busch [mailto:rbusch@kingballow.com]
Sent: Thursday, April 24, 2008 11:39 AM
To: Pomerantz, Glenn; Marc Guilford; mblock@chrisglase.com; Ramona DeSalvo
Cc: LeMoine, Melinda; Encinas, Kimberly
Subject: Re: Depositions

Glenn:

Thanks for your email, Please copy Marc Guilford, Marc Block, Ramona DeSalvo, and Howard Hertz on correspondence.

I assume, from our conversation, we are also going forward with Mr. Paterno Wednesday April 30. I would appreciate receiving the documents that we subpoenaed prior to that date. Is that possible?

Lastly, we need the documents requested in the Eight Mile case prior to the depositions. As I said, we are going to file a motion to compel unless we at least get some word this week they are forthcoming. What is the status?

----- Original Message -----
From: Pomerantz, Glenn <Glenn.Pomerantz@mto.com>
To: Richard Busch
Cc: LeMoine, Melinda <Melinda.LeMoine@mto.com>; Encinas, Kimberly <Kimberly.Encinas@mto.com>
Sent: Thu Apr 24 13:15:34 2008
Subject: Depositions

Richard:

I want to update you on the status of certain depositions.

1. We can make the following witnesses available for deposition on May 5, 6 and 7: Lisa Rogell, Chad Gary, James Harrington, Fred Isler, and Todd Douglas. I'll get back to you soon with the order in which they will be available. The first depo will be on May 5 at 2 pm. We will then have two on Tuesday (9:30 am and 2 pm starting times), and two on Wednesday (9:30 am and 2 pm starting times). I assume the depos will be at Christensen Miller, correct?

2. We would like to take the depos of Messrs. Martin and Cohen on May 12 and 13, or May 13 and 14. Is it possible to have them come to Los Angeles? If not, we are willing to take the depositions on those dates in New York.

3. I am trying to find a date for the depositions of Rand Hoffman and Scott Aronson. I assume each of those is a half-day deposition. If that is correct, then I will try to schedule them on the same date. The depositions will have to be in Los Angeles. I will try to schedule the depositions on one of the following dates: May 22, 23, 27, 28, 29 or 30. Do any of these dates not work for you or someone on your team?

4. David Weinberg returns from vacation tomorrow, so I still don't have a confirmed date for him. He is in LA the week of May 12, so I don't think we can schedule him that week, unless we do the Martin and Cohen depositions in LA (and, of course, assuming Weinberg has a day free that week). Because we want to have Weinberg deposed on the same day in both the Bridgeport and FBT actions, perhaps it will make more sense to have the deposition in New York during the week of May 19 or 26.

5. We would like to take the depositions of Messrs. Bass. Can you get back to us with proposed dates and locations?

Finally, I'm not sure who I am supposed to be copying on these kinds of emails. Who should I copy?